



DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-913]

Certain Non-Refillable Steel Cylinders from India: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 17, 2023.

FOR FURTHER INFORMATION CONTACT: Shane Subler or Zachariah Hall, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6241 and (202) 482-6261, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On April 27, 2023, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain non-refillable steel cylinders (cylinders) from India filed in proper form on behalf of Worthington Industries (the petitioner), a U.S. producer of cylinders.¹ The CVD petition was accompanied by an antidumping duty (AD) petition concerning imports of cylinders from India.²

On May 1 and 2, 2023, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ On May 5 and 8, 2023, the petitioner filed timely responses to

¹ See Petitioner's Letter, "Certain Non-Refillable Cylinders from India – Petition for the Imposition of Antidumping and Countervailing Duties," dated April 27, 2023 (Petition).

² *Id.*

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Non-Refillable Steel Cylinders from India: Supplemental Questions," dated May 1, 2023; and "Petition for the Imposition of Countervailing Duties on Imports of Certain Non-Refillable Steel Cylinders from India: Supplemental Questions," dated May 2, 2023.

these requests for additional information.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of cylinders in India, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing cylinders in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁵

Period of Investigation

Because the Petition was filed on April 27, 2023, the period of investigation (POI) is January 1, 2022, through December 31, 2022.⁶

Scope of the Investigation

The products covered by the investigation are cylinders from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on the Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁷ Commerce will consider all comments received from interested parties and, if necessary, will consult with

⁴ See Petitioner's Letters, "Certain Non-Refillable Steel Cylinders from India – Petitioner's Amendment to Volume I Relating to General and Injury Information," dated May 3, 2023 (General Issues Supplement); and "Certain Non-Refillable Steel Cylinders from India – Petitioner's Amendment to Volume III Relating to Countervailing Duties," dated May 8, 2023.

⁵ See "Determination of Industry Support for the Petition" section, *infra*.

⁶ See 19 CFR 351.204(b)(2).

⁷ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

interested parties prior to the issuance of the preliminary determination. If scope comments include factual information, all such factual information should be limited to public information.⁸ To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on June 6, 2023, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 16, 2023, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must also be filed simultaneously on the record of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.⁹ An electronically filed document must be received successfully in its entirety by the time and date it is due.¹⁰

Consultations

⁸ See 19 CFR 351.102(b)(21) (defining "factual information").

⁹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹⁰ See 19 CFR 351.303(b)(1).

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI of the receipt of the Petition and provided it an opportunity for consultations with respect to the Petition.¹¹ Commerce held consultations with the GOI on May 10, 2023.¹²

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s

¹¹ See Commerce’s Letter, “Countervailing Duty Petition on Non-Refillable Steel Cylinders from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,” dated April 28, 2023.

¹² See Memorandum, “Consultations with Officials from the Government of India,” dated May 11, 2023.

¹³ See section 771(10) of the Act.

determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁵ Based on our analysis of the information submitted on the record, we have determined that cylinders, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2022.¹⁷ The petitioner stated that there are no other known producers of cylinders in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁸ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁹

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989)).

¹⁵ See Petition at Volume I (pages 13-17); see also General Issues Supplement at 2 and Exhibits GEN-SUPP-1 and GEN-SUPP-2.

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Countervailing Duty Investigation Initiation Checklist, “Certain Non-Refillable Steel Cylinders from India,” dated concurrently with this notice (CVD Initiation Checklist), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Non-Refillable Steel Cylinders from India).

¹⁷ See Petition at Volume I (page 3 and Exhibit GEN-2).

¹⁸ *Id.* at 2-3 and Exhibit GEN-1; see also General Issues Supplement at 2 and Exhibit GEN-1.

¹⁹ See Petition at Volume I (pages 2-3 and Exhibits GEN-1 and GEN-2); see also General Issues Supplement at 2 and Exhibit GEN-SUPP-1. For further discussion, see the CVD Initiation Checklist at Attachment II.

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁰ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²¹ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²² Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²³

Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury

²⁰ See CVD Initiation Checklist at Attachment II; *see also* section 702(c)(4)(D) of the Act.

²¹ See CVD Initiation Checklist at Attachment II.

²² *Id.*

²³ *Id.*

to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁴

The petitioner contends that the industry's injured condition is illustrated by the significant and increasing volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; and adverse impact on the domestic industry's capacity utilization, commercial shipments, employment variables, and financial performance.²⁵ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²⁶

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of cylinders from India benefit from countervailable subsidies conferred by the GOI. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 51 of 52 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

²⁴ See Petition at Volume I (pages 12, 17-19, and Exhibits GEN-1 and GEN-11).

²⁵ *Id.* at 19-31 and Exhibits GEN-1 and GEN-8 through GEN-15; *see also* General Issues Supplement at 3 and Exhibits GEN-SUPP-3 and GEN-SUPP-4.

²⁶ See CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Non-Refillable Steel Cylinders from India (Attachment III).

In the Petition, the petitioner identified five companies in India as producers and/or exporters of cylinders.²⁷ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event that Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to the potential respondents. Commerce normally selects mandatory respondents in CVD investigations using U.S. Customs and Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. However, for this investigation, the main HTSUS subheadings under which the subject merchandise would enter (7311.00.0060 and 7311.00.0090,) are basket categories under which non-subject merchandise may enter. Therefore, we cannot rely on CBP entry data in selecting respondents. We, instead, intend to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

Exporters/producers of cylinders from India that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain the Q&V questionnaire from Enforcement and Compliance's website at <https://access.trade.gov/resources/questionnaires/questionnaires-ad.html>. Responses to the Q&V questionnaire must be submitted by the relevant Indian producers/exporters no later than 5:00 p.m. ET on May 31, 2023, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decision regarding respondent selection within 20 days of publication of this notice.

²⁷ See Petition at Volume I (Exhibit GEN-8).

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOI via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of cylinders from India are materially injuring, or threatening material injury to, a U.S. industry.²⁸ A negative ITC determination will result in the investigation being terminated.²⁹ Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)-(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁰ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the

²⁸ See section 703(a)(1) of the Act.

²⁹ *Id.*

³⁰ See 19 CFR 351.301(b).

factual information seeks to rebut, clarify, or correct.³¹ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.³²

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³³ Parties must use the certification formats

³¹ See 19 CFR 351.301(b)(2).

³² See 19 CFR 351.302; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³³ See section 782(b) of the Act.

provided in 19 CFR 351.303(g).³⁴ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.³⁵

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 17, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

³⁴ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

³⁵ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Appendix

Scope of the Investigation

The merchandise covered by this investigation is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation specification 39, TransportCanada specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 100-cubic inch (1.6 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and are unfilled at the time of importation. Non-refillable steel cylinders filled with pressurized air otherwise meeting the physical description above are covered by this investigation.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to this investigation is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also enter under HTSUS statistical reporting numbers 7310.29.0030 and 7310.29.0065. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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